

House File 516 - Introduced

HOUSE FILE 516
BY COMMITTEE ON ECONOMIC
GROWTH

(SUCCESSOR TO HSB 111)

A BILL FOR

1 An Act relating to rural water providers by making changes
2 to water service requirements and changes related to
3 compensation for the acquisition of certain facilities by a
4 city.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 357A.1, Code 2013, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 6A. "Rural water association" or
4 "association" means a rural water association organized and
5 incorporated as a cooperative association under chapter 499 or
6 as a nonprofit corporation under chapter 504.

7 Sec. 2. Section 357A.2, subsections 3 and 4, Code 2013, are
8 amended to read as follows:

9 3. a. Water services, other than water services provided as
10 of April 1, 1987, shall not be provided within two miles of the
11 limits of a city by a rural water district incorporated under
12 this chapter or chapter 504 except as provided in this section.

13 b. Water services, other than water services provided as
14 of July 1, 2013, shall not be provided within two miles of
15 the limits of a city by a rural water association, except as
16 otherwise provided for in this section.

17 4. a. A rural water district ~~incorporated under this~~
18 ~~chapter or chapter 504~~ may or rural water association shall
19 give notice of intent to provide water service to a new area
20 within two miles of a city or to replace or substantially
21 increase the capacity of existing facilities or infrastructure
22 within two miles of a city by submitting a water plan to the
23 city. If city water service is governed by a board of trustees
24 established under chapter 388, the water plan shall be filed
25 with the board of trustees.

26 b. The plan ~~is only required to~~ shall indicate the area
27 within two miles of the city which the rural water district or
28 rural water association intends to serve within four years of
29 the date the plan is filed.

30 c. The plan shall describe whether federal financing of the
31 rural water district or rural water association may directly or
32 indirectly create an exclusive right, franchise, or privilege.
33 The plan shall also describe whether such financing may limit,
34 curtail, or preempt rights or privileges of a city to serve
35 current or future customers. The plan shall further describe

1 whether the district or association facilities will provide
2 sufficient capacity for fire protection services to be provided
3 in the area within two miles of a city. The plan shall include
4 the number of customers that existing facilities are meant to
5 serve or, in the case of notification of intent to replace or
6 substantially increase capacity, the number of new customers to
7 be served by replaced or expanded facilities.

8 d. If the city fails to respond to ~~the rural water~~
9 ~~district's~~ such a plan within ninety days of receipt of the
10 plan, the rural water district or rural water association may
11 provide service in the area designated in the plan. The city
12 may inform the ~~rural water~~ district or association within
13 ninety days of receipt of the plan that the city requires
14 additional time or information to study the question of
15 providing water service outside the limits of the city. If
16 additional time or information is required, the city shall
17 respond to the ~~rural water district's~~ plan within one hundred
18 eighty days of receipt of the plan.

19 e. In responding to the plan, the city may waive its right
20 to provide water service within the areas designated for
21 service by the rural water district or rural water association,
22 or the city may reserve the right to provide water service in
23 some or all of the areas which the ~~rural water~~ district or
24 association intends to serve. If the city reserves the right
25 to provide water service within some or all of the areas which
26 the ~~rural water~~ district or association intends to serve, the
27 city shall provide service within four years of receipt of the
28 plan. The city may rescind a waiver after four years from the
29 date the plan is filed for any area in which the district or
30 association has not provided service.

31 f. This section does not preclude a city from providing
32 water service in ~~an area which is annexed by the city~~
33 accordance with section 357A.21.

34 Sec. 3. Section 357A.2, Code 2013, is amended by adding the
35 following new subsection:

1 NEW SUBSECTION. 5. A city shall compensate a rural
2 water district or rural water association for any existing
3 facilities displaced by the city's provision of water service
4 in accordance with section 357A.21.

5 Sec. 4. Section 357A.16, Code 2013, is amended to read as
6 follows:

7 **357A.16 Detaching real property from a district or**
8 **association.**

9 1. If it becomes apparent that any real property included
10 within a rural water district or a rural water association
11 cannot economically or adequately be served by the facilities
12 of the district or association, the owners of the real property
13 may file with the auditor a petition to the supervisors
14 requesting that the real property be detached from the district
15 or association. The petition shall:

16 ~~1-~~ a. Describe by section, or fraction thereof, and by
17 township and range, the real property which it is proposed
18 to detach from the rural water district or rural water
19 association.

20 ~~2-~~ b. State that the real property cannot economically
21 or adequately be served by the facilities of the rural water
22 district or rural water association, and that it is not
23 feasible for the district or association to enlarge or extend
24 its facilities so as to economically and adequately serve the
25 real property.

26 ~~3-~~ c. Be signed by the owners of all the real property
27 which it is desired to detach from the rural water district or
28 rural water association.

29 2. For the purposes of this section, "economically or
30 adequately served" means that the facilities of the rural water
31 district or rural water association do not create an impediment
32 to economic development and includes but is not limited
33 to the district or association offering reasonable water
34 service rates to the owners of real property, the sufficient
35 provision of water and infrastructure for fire protection and

1 fire suppression, and the ability to provide any reasonably
 2 anticipated future water service needs as specified by the
 3 owners of the real property.

4 Sec. 5. Section 357A.21, Code 2013, is amended to read as
 5 follows:

6 **357A.21 Annexation Buyout of facilities and annexation of**
 7 **land by a city — arbitration.**

8 1. A rural water district or rural water association, or
 9 a water district organized under this chapter, chapter 357,
 10 499, or chapter 504 shall be fairly compensated for losses
 11 resulting from annexation distribution facilities acquired by
 12 a city. Where such distribution facilities located within
 13 the corporate limits of a city are acquired by the city
 14 through a buyout, fair compensation shall be the original
 15 cost of the distribution facilities plus an amount not to
 16 exceed the expected losses to net revenue of the district or
 17 association over a ten-year period based upon the district's
 18 or association's most recent audit preceding such a buyout.
 19 For the purposes of this subsection, expected losses to net
 20 revenue shall be based upon revenue received by the district or
 21 association from the sale of water to customers served by the
 22 district or association that are included in such a buyout.

23 2. The If a city annexes territory containing facilities
 24 owned by a district or association, the governing body of a
 25 the city or the city's water utility and the governing board
 26 of directors or trustees of the water district or association
 27 may agree to terms which provide that the facilities owned
 28 by the water district or association and located within the
 29 city shall be retained by the water district or association
 30 for the purpose of transporting water to customers outside the
 31 city. If an agreement is not reached within ninety days, the
 32 issues may be submitted to mediation under chapter 679C or to
 33 arbitration. If submitted, an arbitrator shall be selected by
 34 a committee which includes one member of the governing body of
 35 the city or its designee, one member of the water district's or

1 association's governing board of directors or trustees or its
2 designee, and a disinterested party selected by the other two
3 members of the committee. A list of qualified arbitrators may
4 be obtained from the American arbitration association or other
5 recognized arbitration organization or association.

6 EXPLANATION

7 This bill relates to rural water providers by making
8 changes to water service requirements and changes related to
9 compensation for certain facilities acquisitions.

10 The bill defines "rural water association".

11 The bill places certain limitations on the provision of
12 water services by rural water associations to areas that are
13 within two miles of a city after July 1, 2013.

14 Current law provides that a rural water district may provide
15 notice of intent to provide water service to a new area within
16 two miles of a city. The bill requires that rural water
17 associations also provide such notice. The bill requires that
18 notice also be provided by a district or association intending
19 to replace or substantially increase the capacity of existing
20 facilities within two miles of a city. The bill further
21 requires that if a city's water service is governed by a board
22 of trustees that the notice shall be filed with the board.

23 Current law requires that a water plan submitted by a
24 rural water district only include an indication of the new
25 area that the district intends to serve. The bill requires
26 that a district or association indicate any such area that
27 the district or association intends to serve within four
28 years following the date that the plan is filed with a city.
29 Additionally, the plan is also required to provide information
30 relating to federal financing, fire protection service
31 capacity, and information related to the number of customers
32 served or intended to be served.

33 Current law provides that a city may waive its right to
34 provide water service within the areas designated in a water
35 plan. The bill provides that a city may rescind such a waiver

1 after four years following the date the water plan is filed
2 with the city, provided that the district or association has
3 not provided service to the area.

4 The bill provides a definition for the term "economically or
5 adequately served" related to the provision of water service
6 by a district or association.

7 The bill provides that a district be compensated for
8 distribution facilities acquired by a city through buyout
9 procedures and provides a formula for determining the amount
10 of compensation to be paid. The bill further provides that a
11 city may provide compensation to a district or association for
12 service that was proposed or intended to be provided by the
13 district or association at the time of acquisition.

14 The bill further provides that if the city or city utility
15 cannot reach an agreement for the retention of certain rights
16 by a district or association, that the issues may be submitted
17 to mediation.